

REMARKS

Reconsideration and allowance of the present application in view of the foregoing amendments and the following remarks are respectfully requested.

At the outset, applicant's counsel wishes to express his appreciation for the thorough examination of this application by Examiner Dicus.

Applicant hereby affirms without traverse the provisional election of claims 1-5 made by way of telephone conference between the undersigned counsel and Examiner Dicus on March 1, 2006. Consistent with this election, and solely for purposes of expediting prosecution, applicant has canceled herein without prejudice the withdrawn claims 6-16. Nonetheless, applicant hereby reserves the right to file a divisional application containing claims 1-16 as provided by the rules and statute.

Article claims 1-5 were rejected under 35 USC 103(a) as being unpatentable over **Sanders** (No. 5,773,101). It is the Examiner's position that **Sanders** teaches the use of a camouflage pattern derived from a photographic image of various "images of nature" (ref: **Sanders**, column 7, lines 1-20), and that therefore applicant's claims drawn to a camouflage pattern comprising an image of animals such as

insects are thereby rendered "obvious" within the meaning of the statute.

Applicant vigorously disagrees!

The **Sanders** patent describes a camouflage pattern that is comprised of a series of three-dimensional folds extending from the plane of an underlying sheet. While **Sanders** does suggest that the sheet may include photographic images "in nature" transferred to the sheet ... **Sanders** clearly admonishes that such natural images extend no further than and are restricted to "woods, tree bark, branches, brush plants and grass" (see column 7, lines 19-21). **Sanders** notoriously fails to even vaguely teach or suggest that such "natural images" are images of an animal, let alone a flying insect such as a moth or butterfly, or a part thereof. Only applicant teaches that images of animals, or parts thereof, may be used as camouflage, and in the absence of a fair teaching of same is entitled to patent protection for his contribution.

In order to further expedite prosecution of this application, applicant has canceled claims 2-4 and has incorporated the subject matter thereof into parent claim 1. Thus, claim 1, particularly as amended herein, now requires a camouflage pattern comprising "at least one image of an animal ... wherein the animal is an insect, wherein the

insect is a flying insect, and wherein the flying insect is a moth or a butterfly." This express language in claim 1 now more clearly distinguishes over **Sanders** because as manifested above, **Sanders** is totally silent with respect to the use of images of an animal and especially of a flying insect such as a moth or butterfly (or part thereof). Moreover, by restricting the "natural images" set forth therein merely to "branches, twigs, grasses, and so on, **Sanders** militates against and teaches away from applicant's invention of utilizing images of animals or "insects" as camouflage. For these reasons, the Examiner's rejection of claim 1, particularly as amended herein, as being "obvious" in view of **Sanders** under § 103, clearly is avoided and should now be withdrawn.

Claim 5 which has been amended to depend from and further restrict claim 1, is considered to avoid the Examiner's rejection under § 103 for at least the same reasons given above. Claim 5 is believed to be even further distinguishable over **Sanders** because this depending claim adds that images of insects are commingled with images of plants. As explained above, if **Sanders** fails to teach or suggest a camouflage pattern comprising images of animals such as insects, **Sanders** cannot possibly teach or suggest a camouflage pattern comprising the combination of insects and plants. For this additional reason, claim 5, particularly as amended herein, is

believed to avoid the Examiner's § 103 rejection based upon the **Sanders** reference and should be allowed forthwith.

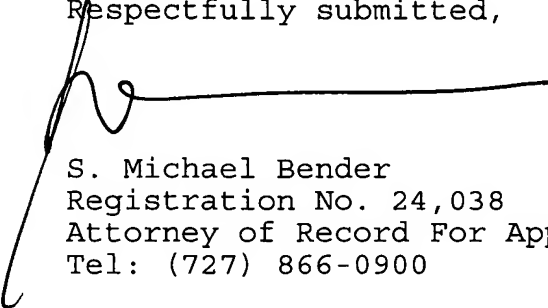
It is noted with due appreciation that the drawings have not been objected to by the Official Draftsperson under 37 CFR 1.84 or 1.152.

All grounds of objection and rejection having been overcome by this Amendment, the application now is believed to be in condition for immediate allowance containing allowed claims 1 and 5, and such favorable action earnestly is solicited.

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The Examiner is encouraged to telephone the undersigned to resolve any issues still present in the application and to expedite the prosecution of the application, should the Examiner believe such a telephone conference would be helpful.

Respectfully submitted,



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CERTIFICATE OF MAILING

I hereby certify that this **Amendment Under 37 CFR § 1.111** is being deposited on September 7, 2006 with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

Signature:



Date Signed: September 7, 2006